

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743

**ATTACHMENT NO. 3****INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Chapter 4, Subchapter 4, Article 29, Section 1718, of the Construction Safety Orders (CSO) and Subchapter 7, Article 98, Section 4995, of the General Industry Safety Orders (GISO)

Riding on Loads**SUMMARY**

On March 31, 2000, the Occupational Safety and Health Appeals Board (OSHAB) issued a decision (Docket 98-R2D1-3873, March 31, 2000) in response to an appeal filed by an employer, California Erectors, Bay Area, Inc. The appeal was filed to contest a serious citation issued by the Division of Occupational Safety and Health (Division) for a violation of Section 1718(a). After hearing the case, the OSHAB granted the appeal, vacated the citation and set aside the penalty.

The Division investigated a serious injury accident and cited the employer for allowing the injured employee to "ride the load" of a crane. In the Division's opinion, the beam was the "load" of the crane because the crane was supporting the beam when the employee traveled across it. The beam could roll or bounce on the crane line as the employee traversed towards the unbolted end, or a crane malfunction or operator error could cause the beam to jump. For these reasons, the Division believes that the employee traveling across the beam under such conditions was riding on a load, which is consistent with the intent of CSO Section 1718(a) and GISO Section 4995.

The terms "ride" and "ride [or riding] a load" are not currently defined in Title 8. The OSHAB Administrative Law Judge, therefore, interpreted that "to ride on loads," as used in Sections 1718 and 4995, means the employee traveling as a passenger on a load that is being moved by a crane. In this case, the injured employee was traveling on a beam from one end to another, while the beam was being held stationary and one end was still supported by a crane. That means, an employee on a stationary load is not in violation of Sections 1718 and 4995, although the employee is exposed to the same hazard of falling from the load as on a moving load. It is proposed to amend Section 4995 to replace the confusing term – to ride on loads – with language that clarifies the intent of the regulation and makes it more understandable to the employer. It should be noted that in 1986 the crane safety orders were deleted from the CSO and reference to the GISO was added. To be consistent, it is proposed to amend CSO, Section 1718(a) to delete

the statement that “No person shall be permitted to ride on loads...” and delete reference to “hooks, or slings of any derrick, hoist, or crane” and add reference to GISO, Section 4995.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Section 1718. Riding on Loads.

Existing Section 1718(a) prohibits employees from riding on loads of any derrick, hoist, or crane. A revision is proposed to amend CSO, Section 1718(a) to delete the requirements for riding on loads and add reference to GISO, Section 4995. The proposed revision is necessary to clearly indicate to the employer where Title 8 requirements pertaining to riding on loads are located.

Section 4995. Riding Loads on Derricks, Hoists, or Cranes.

This section prohibits employees from riding loads of any derrick, hoist or crane. Revisions are proposed to reword Section 4995 to add words “...sit, stand, work, or walk from one point to another...” after the word “ride” and addition of words “...the stationary or moving...” after the word “on” and “...partially or fully supported by...” after the word “of.” Further revisions are proposed to delete the word “of” and addition of a Note explaining to the employer Title 8 requirements pertaining to the use of elevating work platforms and aerial devices, and crane and derrick suspended personnel platforms.

The proposed revisions are necessary to clearly indicate to the employer that no employee may sit, stand, work or walk, etc., on moving or stationary loads thereby defining what is meant by “riding a load.” The “Note” is necessary to explain to employers where regulations governing acceptable methods for hoisting personnel are located in the safety orders.

DOCUMENTS RELIED UPON

1. Decision of Occupational Safety and Health Appeals Board, Docket 98-R2D1-3873, dated March 31, 2000.

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.